

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES – GENERAL

Case No. LA CV12-04802 JAK (PJWx)

Date June 7, 2012

Title Pacifica Seacove, LP v. Wade A. Holland, et al.

Present: The Honorable JOHN A. KRONSTADT, UNITED STATES DISTRICT JUDGE

Andrea Keifer

Not Reported

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

Proceedings: (IN CHAMBERS) ORDER TO SHOW CAUSE RE SUBJECT MATTER JURISDICTION

On May 24, 2012, Plaintiff Pacifica Seacove LP, brought an unlawful detainer action against Defendants Wade Holland and Terry Jew-Holland in the Superior Court of California, Los Angeles County, South District/Long Beach Courthouse. See Notice of Removal, Exh. B, Dkt. 1. Plaintiff alleged that Defendants were unlawfully in possession of the property at 4815 Pepperwood Ave., Long Beach, California, following Plaintiff's purchase of the property at a non-judicial foreclosure trustee's sale on April 27, 2012. *Id.* at ¶¶ 3-7. The unlawful detainer complaint seeks damages of less than \$10,000. On June 1, 2012, Defendants removed the action to this Court. See Notice of Removal, Dkt. 1.

As a court of limited jurisdiction, see *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994), this Court must determine the issue of subject matter jurisdiction before reaching the merits of a case, see *Steel Co. v. Citizens for a Better Env't.*, 523 U.S. 83, 94 (1998). Defendants seek to invoke the subject matter jurisdiction of this Court under 28 U.S.C. § 1331 (federal question jurisdiction).

Federal question jurisdiction exists where a civil action arises "under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331.

For a case to 'arise under' federal law, a plaintiff's well-pleaded complaint must establish either (1) that federal law creates the cause of action or (2) that the plaintiff's asserted right to relief depends on the resolution of a substantial question of federal law. Federal jurisdiction cannot hinge upon defenses or counterclaims, whether actual or anticipated.

K2 Am. Corp. v. Roland Oil & Gas, LLC, 653 F.3d 1024, 1029 (9th Cir. 2011). Plaintiff's unlawful detainer complaint, Notice of Removal, Exh. B, Dkt. 1, does not contain a cause of action that arises under federal law, nor does it raise a federal question; it alleges only unlawful detainer under California state law. Although Defendants' repeated filings, see Notice of Removal, Dkt. 1; Memorandum of Case Law, Dkt. 2; Affidavit of Fact, Dkt. 3; Notice of Memorandum, Dkt. 4; Affidavit of Fact, Dkt. 5, mention various federal statutes, these do not create a federal question, because "the existence of federal jurisdiction on removal must be determined from the face of plaintiff's complaint." *Westinghouse Elec. Corp. v. Newman & Holtzinger, P.C.*, 992 F.2d 932, 934 (9th Cir. 1993).

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The party seeking to establish the Court's jurisdiction bears the burden of establishing it. *Kokkonen*, 511 U.S. at 377. Here, Defendants have not properly pleaded the presence of a federal question under 28 U.S.C. § 1331. Accordingly, the Court issues this Order to Show Cause re Subject Matter Jurisdiction. On or before **June 21, 2012**, the parties are to submit any memoranda, each of which is not to exceed five pages, with respect to whether this Court has subject matter jurisdiction over this action. Upon receiving these memoranda, the Court will determine whether a hearing on any issue raised is necessary or if the matter can be addressed by the Court without a hearing.

IT IS SO ORDERED.

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